

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CAPITOL RECORDS, INC., a Delaware corporation; INTERSCOPE RECORDS, a California general partnership; SONY BMG MUSICA ENTERTAINMENT, a Delaware general partnership; UMG RECORDINGS INC., a Delaware corporation; BMG MUSIC, a New York general partnership; WARNER BROS. RECORDS INC., a Delaware corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

Civil No. 07-cv-1570-JM (POR)

ORDER GRANTING PLAINTIFFS' EX PARTE APPLICATION FOR LEAVE TO TAKE IMMEDIATE DISCOVERY

[Docket No. 3]

On August 9, 2007, Plaintiffs filed a complaint against the Doe Defendant for copyright infringement, alleging that Defendant used an online media distribution system to download and distribute copyrighted works. Plaintiffs do not know the name of the Doe Defendant, but have identified the unique Internet Protocol address assigned to Defendant at the date and time of the alleged infringing activity and have also identified the Internet Service Provider that provided Defendant with internet access at the date and time of the alleged infringing activity. Simultaneous to their complaint, Plaintiffs have filed an *Ex Parte* Application seeking leave of the Court to serve immediate discovery on the Internet Service Provider, the University of California, San Diego, to identify Defendant. Plaintiffs intend to serve a subpoena pursuant to Federal Rule of Civil Procedure 45 on the University of California, San Diego, seeking documents that identify

1 Defendant's true name, current and permanent addresses and telephone numbers, e-mail addresses,
2 and Media Access Control addresses.

3 In accordance with Federal Rule of Civil Procedure 26(d), discovery does not commence
4 until parties to an action meet and confer as prescribed by Federal Rule of Civil Procedure 26(f),
5 unless by court order or agreement of the parties. A court order permitting early discovery may be
6 appropriate "where the need for expedited discovery, in consideration of the administration of
7 justice, outweighs the prejudice to the responding party." Semitool, Inc. v. Tokyo Electron
8 America, Inc., 208 F.R.D. 273, 276 (N.D.Cal. 2002).

9 After reviewing Plaintiffs' *Ex Parte* Application to take discovery, the declaration of Carlos
10 Linares, and the accompanying Memorandum of Law, the Court finds good cause to grant Plaintiffs'
11 Application, based on: (1) the allegations of copyright infringement contained in Plaintiffs
12 complaint; (2) the danger that the University of California, San Diego will not preserve the
13 information that Plaintiffs seek; (3) the narrow tailoring of the discovery request so as not to exceed
14 the minimum information required to advance this lawsuit without prejudicing the Defendant; and
15 (4) the Court's finding that the expedited discovery requested will substantially contribute to moving
16 this case forward. Furthermore, without such discovery, Plaintiffs cannot identify the Doe
17 Defendant, and thus cannot pursue their lawsuit to protect their copyrighted works from
18 infringement. Accordingly, IT IS HEREBY ORDERED:

- 19 1. Plaintiffs may serve immediate discovery on the University of California, San Diego
20 to obtain the identity of the Doe Defendant by serving a subpoena pursuant to Federal
21 Rule of Civil Procedure 45 that seeks information sufficient to identify the Doe
22 Defendant, including the name, current and permanent addresses and telephone
23 numbers, e-mail addresses, and Media Access Control addresses for the Defendant.
- 24 2. Any information disclosed to Plaintiffs in response to the subpoena may be used by
25 Plaintiffs solely for the purpose of protecting Plaintiffs' rights under the Copyright
26 Act.
- 27 3. If the University of California, San Diego and/or the Defendant wishes to move to
28 quash the subpoena, they shall do so before the return date of the subpoena. If such a

1 motion is brought, the University of California, San Diego shall nonetheless preserve
2 the information sought in the subpoena pending resolution of such motion.

- 3 4. Plaintiffs shall provide a copy of this Order to the University of California, San Diego
4 when the subpoena is served.

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6 DATED: August 23, 2007

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9 LOUISA S PORTER
United States Magistrate Judge

10 cc: Honorable Jeffrey T. Miller

11 All parties
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